



2012

LEGISLATIVE ANALYSIS FOR ENACTED LEGISLATION

ADMINISTRATIVE

HB 100 (Numerous Sections) This bill creates the Georgia Tax Tribunal which is an independent and autonomous division within the Office of State Administrative Hearings operating under the sole direction of the chief tribunal judge. The Tribunal will also have a small claims division. Although appeals to the Office of State Administrative Hearings that were previously provided pursuant to O.C.G.A. § 50-13-12 are eliminated, the taxpayer will retain the option of appealing directly to Superior Court instead of the Georgia Tax Tribunal. Petitions for appeal of Tribunal decisions will be heard by the Superior Court of Fulton County, sitting as a reviewing court.

Taxpayers can file petitions in the Georgia Tax Tribunal beginning January 1, 2013.

House Bill 100 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127645.pdf>

HB 846 (O.C.G.A. §§48-2-15.2, 48-2-55, and 48-3-7) Section 1 authorizes the publication of redacted letter rulings, effective for letter rulings requested after May 1, 2012. Section 2 of the bill modernizes the provisions governing the Commissioner's levy and sale of personal property. Section 3 of the bill authorizes the commissioner to electronically store, retrieve, and transmit tax executions.

House Bill 846 became effective upon its approval by the Governor on May 1, 2012.

House Bill 846 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127246.pdf>

SB 428 (O.C.G.A. § 50-13-4) This bill provides that every agency shall submit a report concerning federal government mandates that require agency promulgation of rules and regulations as opposed to state legislative action. Additionally, if duplication of state and federal regulations is involved, that fact must be included in the report. The report is to be provided by each agency to the Governor, the Secretary of State, and to other state officials as listed in the bill.

Senate Bill 428 is effective July 1, 2012.

Senate Bill 428 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127870.pdf>

ALCOHOL, TOBACCO, and COIN OPERATED AMUSEMENT MACHINES

HB 472 (O.C.G.A. §§ 3-1-2, 3-5-36) This bill modifies the definition of "brewpub" such that in determining whether an eating establishment qualifies as a brewpub due to its percentage of sales from food and beverages respectively, barrels of beer sold to licensed wholesale dealers for distribution to retailers and retail consumption dealers are not included when determining the total annual gross food and beverage sales for purposes of the 50% food requirement. This bill also changes certain provisions related to brewpubs by increasing the annual manufacture limitation from 5,000 barrels to 10,000 barrels, increasing the maximum annual amount of barrels that may be sold to a wholesaler from 500 barrels to

5,000 barrels, and removing the limitation that beer is to be sold on the premises at retail solely in draft form.

House Bill 472 is effective on July 1, 2012.

House Bill 472 can be viewed at the following link:

http://www1.legis.ga.gov/legis/2011_12/pdf/hb472.pdf

HB 514 (O.C.G.A § 3-4-180) This bill authorizes the commissioner to issue annual permits to licensed distillers for educational and promotional tours which may include free tastings of samples of distilled spirits. The bill restricts the free tastings to no more than one sample of one-half ounce of distilled spirits per person per calendar day, requires that the tastings be held in a designated tasting area on the premises of the distiller, and requires that all open bottles must be visible at all times.

House Bill 514 is effective on July 1, 2012.

House Bill 514 can be viewed at the following link:

http://www1.legis.ga.gov/legis/2011_12/pdf/hb514.pdf

HB 1066 (Numerous Sections) This bill changes certain provisions for alcohol regulation and alcoholic beverage licenses. Beginning on July 1, 2013, licenses for retailers and retail dealers will be issued for a 12 month period on a staggered renewal basis instead of a calendar year basis. The renewal applications must be made between 60 to 90 days prior to the license expiration date. The bill further provides that any distilled spirits sold, possessed, or bought from anyone other than a wholesale dealer are considered contraband and will be seized. Additionally, the bill repeals the tax bond requirement for retail consumption dealers and clarifies that an annual occupational license tax is imposed on each place of business. The bill also allows the Commissioner to issue special event use permits for the sale of alcoholic beverages for events that would otherwise require a retailer or retail dealer's license, and provides for occupational license taxes to be imposed on the special event use permits.

House Bill 1066 is effective on July 1, 2012.

House Bill 1066 can be viewed at the following link:

http://www1.legis.ga.gov/legis/2011_12/pdf/hb1066.pdf

HB 1071 (Numerous Sections) This bill changes certain provisions for tobacco regulation and licensing. The bill defines a "little cigar" as any cigar weighing not more than three pounds per thousand. The bill imposes tobacco excise taxes on any dealer or distributor (instead of the current imposition only on distributors) upon the first transaction within Georgia, whether or not it involves the ultimate purchaser or consumer. The bill further provides that tobacco products cannot be received, sold, or shipped into Georgia unless they were lawfully obtained from a person properly licensed under Georgia law or from an importer with a valid permit issued under federal law.

Section 3 prescribes an annual renewal period for a tobacco license with a \$10 annual license renewal fee for a manufacturer, importer, distributor, or dealer license. This is in addition to the current \$250 first year registration fee imposed on new manufacturing, importing, or distributing businesses. This section also adds language that license renewal applications must be filed in the 30 day period prior to the license's expiration date.

The bill further provides that any dealer with an alcohol license can arrange to have both their tobacco and alcohol licenses annually renewed at the same time.

Section 5 allows records pertaining to the manufacture, production, and purchase of tobacco products to be kept electronically. This section also provides that invoices sufficient to cover current inventories at a

licensed location must be maintained at that licensed location and made available for immediate inspection. All other records may be kept at a location other than the licensed location but shall be provided for inspection within two days upon a request by the commissioner or his authorized agent. The bill expands penalties for tax evasion based on the volume of tobacco in question. Finally, the bill increases certain existing fines and imposes additional fines and penalties for various unlawful activities related to the sale of tobacco.

House Bill 1071 is effective on January 1, 2013.

House Bill 1071 can be viewed at the following link:
<http://www.legis.ga.gov/Legislation/20112012/127655.pdf>

SB 114 (O.C.G.A. §§ 3-4-24, 3-4-24.1) This bill provides for the issuance of a manufacturer's or distiller's license to a fruit grower for the manufacture of distilled spirits in any county or municipality that has approved either the package sale of distilled spirits or the sale of distilled spirits by the drink. The bill also provides that a licensee may not sell or transfer distilled spirits or alcohol to any person not holding an importer, broker, or wholesaler license. Further, the bill provides that a licensee may provide educational and promotional tours. Finally, this bill authorizes the Commissioner to issue licenses for the manufacture of distilled spirits from agricultural products other than perishable fruits grown in Georgia. Such authorization may be subject to further state and local restrictions.

Senate Bill 114 is effective on July 1, 2012.

Senate Bill 114 can be viewed at the following link:
<http://www.legis.ga.gov/Legislation/20112012/127606.pdf>

SB 431 (O.C.G.A. § 10-1-393) This bill provides that, with certain exceptions, any promotion involving an element of chance which involves the playing of a game on a computer, mechanical device, or electronic device at a place of business in Georgia will be considered an unlawful lottery. Section 2 expands the definition of lottery to include certain instances of playing a no skill game or certain instances of games played by lot or in a finite pool on a computer, mechanical device, or electronic device for a cash or noncash prize. Section 2 also provides, however, that a lottery does not include a promotion, contest, or sweepstakes conducted by certain corporate entities. Section 3 clarifies the definition of a Class A coin operated amusement machine, providing that it cannot allow a successful player to carry points in a play over to any subsequent play. Section 3 also further specifies the types of rewards that may be provided in Class A and Class B coin operated amusement machines. Finally, Section 4 grants the governing authority of any county or municipal corporation the authority to enact and enforce certain ordinances for coin operated amusement machines in addition to the state regulatory provisions.

Senate Bill 431 became effective upon its approval by the Governor on May 2, 2012.

Senate Bill 431 can be viewed at the following link:
http://www1.legis.ga.gov/legis/2011_12/pdf/sb431.pdf

INCOME TAX

HB 386 (O.C.G.A. §§ 48-7-26, 48-7-27, and 48-7-29.12) The income tax portions of this bill provide as follows:

Section 2-1 amends Code Section 48-7-26 by raising the personal exemption for married taxpayers filing a joint return from \$5,400 to \$7,400 and for a married taxpayer filing a separate return from \$2,700 to \$3,700.

Section 2-2 caps the retirement exclusion at \$65,000 for 2012 and later for a taxpayer who is age 65 or more (it was previously slated to gradually rise to an unlimited amount by tax year 2016 for a taxpayer who is age 65 or more).

Section 3-1 amends Code Section 48-7-29.12 (conservation tax credit):

- Specifies that for each application for certification, DNR shall require submission of an appraisal of the qualified donation by the taxpayer along with a nonrefundable \$5,000 application fee; provided, however, that the nonrefundable application fee for property donated to the state shall be 1 percent of the total value of the donation, unless such donation is being made to qualify the state for a federal or state grant.
- Specifies that appraisals received by DNR shall be forwarded to the State Properties Commission for review. The State Properties Commission shall approve the appraisal amount submitted or recommend a lower amount based on its review and inform DNR of its determination. Upon receipt of the State Properties Commission's determination, DNR may proceed with the certification process.
- Specifies that "fair market value" is as determined by the State Properties Commission. Current law states that fair market value means the value of the donated property established by a property appraisal or appraisals meeting the requirements of Section 170 of Title 26 of the United States Code, to be submitted in such manner as the Commissioner may by regulation require.
- Requires the taxpayer to file a copy of the State Property Commission's determination with their tax return to claim the credit.
- Changes the definition of "qualified donation" to specify that beginning on January 1, 2014, the bona fide charitable nonprofit organization must be accredited by the Land Trust Accreditation Commission; to specify that the qualified donation must be for use in a manner consistent with at least two conservation purposes which are now defined in the law; and to eliminate the requirement that the conservation easement must meet the requirements under paragraph (4) of Code Section 12-6A-2.
- Changes the per property credit limitation for partners in a partnership from \$1 million to \$500,000 (note the per taxpayer limitations still apply).
- Requires that the certification issued by the Department of Natural Resources (DNR) specify that the donated property meets certain additional requirements which are now specified in the law.
- Provides that the appraisal required shall be a full narrative appraisal and include:
 - A certification page, as established by the Uniform Standards of Professional Appraisal Practice, signed by the appraiser; and
 - An affidavit signed by the appraiser which includes a statement specifying:
 - The value of the unencumbered property, the total value of the qualified donation in gross, and an accompanying statement identifying the methods used to determine such values;
 - Whether a subdivision analysis was used in the appraisal;
 - Whether the landowner or related persons own any other property, the value of which is increased as a result of the donation; and
 - That the appraiser is certified pursuant to Chapter 39A of Title 43.
- Specifies that a final determination by DNR or the State Properties Commission shall be subject to review and appeal under Chapter 13 of Title 50, the Georgia Administrative Procedure Act.
- Changes the qualified donation limitation from stating that only one qualified donation may be made with respect to any real property that was, in the year prior to donation, within the same tax parcel of record, to stating that only one qualified donation may be made with respect to any real property that was, in the five years prior to the donation, within the same tax parcel of record (but retains the exception for a donation by a person who is not a related person with respect to any prior eligible donors of any portion of such tax parcel).
- Provides any tax credits earned by a taxpayer in a taxable year beginning on or after January 1, 2013, previously claimed and not used, may be transferred or sold in whole or in part by the taxpayer to another Georgia taxpayer but the transferor may make only a single transfer or sale of tax credits earned in a taxable year; however the transfer or sale may involve one or more transferees.

- Changes the penalty relating to an appraisal that has a substantial valuation misstatement.
- Specifies that no credit shall be allowed with respect to any amount deducted from taxable net income by the taxpayer as a charitable contribution.

The income tax portions of House Bill 386 will become effective on January 1, 2013 and are applicable to taxable years beginning on or after January 1, 2013.

House Bill 386 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/126282.pdf>

HB 729 (O.C.G.A. § 48-1-2) The income tax portion of this bill (Section 1) is applicable to taxable years beginning on or after January 1, 2011. With exceptions discussed below, the bill adopts the provisions of all federal laws related to the computation of Federal Adjusted Gross Income (Federal Taxable Income for non-individuals) that were enacted on or before January 1, 2012. For 2011, the I.R.C. Section 179 deduction is \$250,000 and the related phase out is \$800,000. For 2012, the I.R.C. Section 179 deduction decreases to \$139,000 and the related phase out is \$560,000. Georgia has not adopted the Section 179 deduction for certain real property.

Exceptions

Georgia has not adopted I.R.C. Section 168(k) (the 30%, 50% and 100% bonus depreciation rules) except for I.R.C. Section 168(k)(2)(A)(i) (the definition of qualified property), I.R.C. Section 168(k)(2)(D)(i) (exceptions to the definition of qualified property), and I.R.C. Section 168(k)(2)(E) (special rules for qualified property) and Georgia has not adopted I.R.C. Section 199 (federal deduction for income attributable to domestic production activities).

Georgia has also not adopted the following:

- The exclusion of \$2,400 of unemployment income for 2009. I.R.C. Section 85(c).
- Additional itemized deduction for the sales tax on the purchase of a new vehicle in 2009. I.R.C. Sections 164(a)(6) and 164(b)(6). Please note: Georgia also does not allow the increased standard deduction for sales tax on the purchase of a new vehicle in 2009 because Georgia has its own standard deduction.
- The election to increase the normal two year net operating loss carryback to 3, 4, or 5 years for tax years 2008 and 2009. I.R.C. Sections 172(b)(1)(H) and 810(b)(4).
- The transition rule that would allow a taxpayer to revoke a prior election to forego the net operating loss carryback period.
- Deferral of debt discharge income from reacquisitions of business debt at a discount in 2009 and 2010 which is federally deferred for up to five years, then included ratably over five years. I.R.C. Section 108(i).
- Modified rules for high yield original issue discount obligations. I.R.C. Sections 163(e)(5)(F) and 163(i)(1).
- New York Liberty Zone Benefits. I.R.C. Section 1400L.
- 50% first year depreciation for post 8/28/2006 Gulf Opportunity Zone property. I.R.C. Section 1400N(d)(1).
- 50% bonus depreciation for most tangible property and computer software bought after May 4, 2007 and placed in service in the Kansas Disaster Area. I.R.C. Section 1400N(d)(1).
- 50% bonus depreciation for “qualified reuse and recycling property”. I.R.C. Section 168(m).
- 50% bonus depreciation in connection with disasters federally declared after 2007. I.R.C. Section 168(n).
- Increased (\$8,000) first-year depreciation limit for passenger automobiles if the passenger automobile is “qualified property”. I.R.C. Section 168(k).
- 15 year straight-line cost recovery period for certain improvements to retail space. I.R.C. Sections 168(e)(3)(E)(ix), 168(e)(8), and 168(b)(3)(l).

- Modified rules relating to the 15 year straight-line cost recovery for qualified restaurant property (allowing buildings to now be included). I.R.C. Section 168(e)(7).
- 5 year depreciation life for most new farming machinery and equipment. I.R.C. Section 168(e)(3)(B)(vii).
- Special rules relating to Gulf Opportunity Zone public utility casualty losses. I.R.C. Section 1400N(j).
- 5 year carryback of NOLs attributable to Gulf Opportunity Zone losses. I.R.C. Section 1400N(k).
- 5 year carryback of NOLs incurred in the Kansas disaster area after May 3, 2007. I.R.C. Section 1400N(k).
- 5 year carryback of certain disaster losses. I.R.C. Sections 172(b)(1)(J) and 172(j).
- The election to deduct public utility property losses attributable to May 4, 2007 Kansas storms and tornadoes in the fifth tax year before the year of the loss. I.R.C. Section 1400N(o).
- Special rules relating to a financial institution being able to use ordinary gain or loss treatment for the sale or exchange of certain preferred stock after Dec. 31, 2007. I.R.C. Section 1221.
- Temporary tax relief provisions relating to the Midwestern disaster area. I.R.C. Sections 1400N(f) and 1400N(k).

The income tax portion of House Bill 729 became effective upon its approval by the Governor on May 1, 2012 and is applicable to taxable years beginning on or after January 1, 2011.

House Bill 729 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127603.pdf>

HB 808 (O.C.G.A. § 48-7-27) This bill provides an exclusion for disability income received by a disabled veteran who is a citizen and resident of Georgia to the extent the income is included in Federal Adjusted Gross Income. “Disabled veteran” means:

- Any wartime veteran who was discharged under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as being at least 90 percent totally and permanently disabled and entitled to receive service connected benefits; or
- Any veteran who is receiving or who is entitled to receive a statutory award from the United States Department of Veterans Affairs for:
 1. Loss or permanent loss of use of one or both feet;
 2. Loss or permanent loss of use of one or both hands;
 3. Loss of sight in one or both eyes; or
 4. Permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends on angular distance no greater than 20 degrees in the better eye.

House Bill 808 became effective upon its approval by the Governor on April 16, 2012 and is applicable to taxable years beginning on or after January 1, 2013.

House Bill 808 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127236.pdf>

HB 868 (O.C.G.A. §§ 48-7-40, 48-7-40.1, 48-7-40.12, 48-7-40.15, 48-7-40.17, and 48-7-40.24) This bill changes certain provisions regarding the following state income tax credits.

The bill amends Code Section 48-7-40 (job tax credit):

- Adds “the manufacturing of alternative energy products for use in solar, wind, battery, bioenergy, biofuel, and electric vehicle enterprises” and “biomedical manufacturing” to the definitions of a “business enterprise” and “existing business enterprise”.

- Changes the job creation requirement for a tier 1 county from five jobs to two jobs.
- Allows the existing business enterprise tax credit to be carried forward.
- Specifies that taxpayers that initially claimed this credit for any taxable year beginning before January 1, 2012 shall be governed, for purposes of all such credits claimed as well as any credits claimed in subsequent taxable years related to such initial claim, by this Code section as it was in effect for the taxable year in which the taxpayer made such initial claim.

The bill amends Code Section 48-7-40.1 (job tax credit for business enterprises in less developed areas):

- Adds “the manufacturing of alternative energy products for use in solar, wind, battery, bioenergy, biofuel, and electric vehicle enterprises” and “biomedical manufacturing” to the definition of a “business enterprise”.
- Specifies that taxpayers that initially claimed this credit for any taxable year beginning before January 1, 2012 shall be governed, for purposes of all such credits claimed as well as any credits claimed in subsequent taxable years related to such initial claim, by this Code section as it was in effect for the taxable year in which the taxpayer made such initial claim.

The bill amends Code Section 48-7-40.12 (research tax credit):

- Provides that where the amount of credit exceeds 50 percent of the business enterprise’s remaining Georgia net income tax liability after all other credits have been applied in a taxable year, the excess credit can be used against payroll withholding.

The bill amends Code Section 48-7-40.15 (port activity tax credit):

- Changes the NAICS Code for broadcasting from 516 to 519 in the definition of “broadcasting”.
- Adds “the manufacturing of alternative energy products for use in solar, wind, battery, bioenergy, biofuel, and electric vehicle enterprises” and “biomedical manufacturing” to the definition of a “business enterprise”.
- Allows a business enterprise under Code Section 48-7-40.1 (job tax credit for business enterprises in less developed areas) to claim the port activity tax credit.

The bill amends Code Section 48-7-40.17 (quality jobs tax credit):

- Eliminates the requirement that a new quality job have no predetermined end date from the definition of “new quality job.”
- Specifies that taxpayers that initially claimed this credit for any taxable year beginning before January 1, 2012 shall be governed, for purposes of all such credits claimed as well as any credits claimed in subsequent taxable years related to such initial claim, by this Code section as it was in effect for the taxable year in which the taxpayer made such initial claim.

The bill amends Code Section 48-7-40.24 (mega tax credit):

- Clarifies that when there is a merger or acquisition of another company by a business enterprise whose application for a qualified project has been approved, the existing jobs in this state shall not be counted in calculating the job creation requirement and the credit calculation necessary to qualify for the tax credit. Only additional jobs added in this state that meet the requirements of this credit shall be counted for purposes of calculating the job creation requirement and the credit calculation.
- Adds to the definition of “job creation requirement” that if at the close of the sixth taxable year following the withholding start date a minimum of \$600 million in qualified investment property has been purchased or acquired by the business enterprise to be used with respect to a qualified project, the deadline for the job creation requirement shall be extended for an additional two-year period, and that if at the close of the eighth taxable year following the withholding start date a minimum of \$800 million in qualified investment property has been purchased or acquired by the business enterprise to be used with respect to a qualified project, the deadline for the job creation requirement shall be extended for an additional four year period after the sixth taxable year following the withholding start date.
- Extends the time frame in which a new full-time job must be created to qualify for the credit from the close of the seventh taxable year following the business enterprise’s withholding start date to

the close of the eighth taxable year following the withholding start date if the purchase or acquisition of \$600 million in qualified investment property is made, or to the end of the tenth taxable year if the purchase or acquisition of \$800 million in qualified investment property is made.

- Extends the time frame for submission of the report in subparagraph (k) to coincide with the extended job creation requirement (described above).
- Changes the maximum number of new full-time employee jobs that can be created by any one project from 3,300 to 4,500.

House Bill 868 became effective upon its approval by the Governor on May 3, 2012 and is applicable to taxable years beginning on or after January 1, 2012.

House Bill 868 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/125427.pdf>

HB 965 (O.C.G.A. §§ 48-7-114 and 48-7-129) This bill makes the following changes:

Section 1 amends O.C.G.A. § 48-7-114(e) to provide that fiduciaries shall not be required to pay estimated tax with respect to any taxable year ending before the date two years after the date of the decedent's death in the case of:

1. The estate of such decedent; or
2. A testamentary trust as defined in IRC Section 6654(1)(2)(B).

Section 2 amends O.C.G.A. § 48-7-129, relating to nonresident withholding for partnerships, Subchapter 'S' corporations, and limited liability companies. Currently withholding is required on any monthly "distributions paid" and on annual "distributions credited but not paid". This bill changes the requirement such that withholding will only be required annually on the nonresident member's share of the taxable income sourced to this state, whether distributed or not. The payment is due on or before the due date (without extensions) for filing the income tax return for the entity.

House Bill 965 became effective upon its approval by the Governor on May 1, 2012. Section 2 is applicable to taxable years beginning on or after January 1, 2012.

House Bill 965 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127712.pdf>

HB 1027 (O.C.G.A. §§ 48-7-40.24 and 48-7-40.26) This bill makes the following changes:

Section 1 amends Code Section 48-7-40.24 (mega tax credit):

- Defines the term "affiliate".
- Includes the term "taxpayer", and adds the phrase "and its affiliates" to the definition of "business enterprise".

Section 2 amends Code Section 48-7-40.26 (film tax credit):

- Changes the definition of "multimarket commercial distribution" to specify that the term means "paid" commercial distribution.
- Includes expenditures (excluding license fees) incurred with Georgia companies for sound recordings and musical compositions in the definition of "production expenditures".
- Eliminates the requirement that a travel agency or travel company must be "based" in Georgia from the definition of "production expenditures"; eliminates the requirement that an insurance agency or company must be "based" in Georgia from the definition of "production expenditures".
- Specifies that the term "production expenditures" shall not include postproduction expenditures for footage shot outside of Georgia, marketing, story rights, or distribution, but shall not affect other qualified story rights; and specifies that payments to a loan-out company that have met

their withholding tax obligations as newly specified in the law are included in the definition of “production expenditures”.

- Changes the definition of “qualified Georgia promotion” to specify that it includes a qualified movie production which includes a five-second long static or animated logo that promotes Georgia in the end credits before the below-the-line crew crawl for the life of the project and which includes a link to Georgia on the project’s web page; and to specify that it includes a qualified TV production which includes an embedded five-second long Georgia promotion during each broadcast worldwide for the life of the project and which includes a link to Georgia on the project’s web page.
- Defines the term “qualified interactive entertainment production company”.
- Changes the definition of “qualified production activities” to specify that commercials must be televised; to add a comma between “series” and “pilot”; to include video on demand, direct to DVD, digital platforms designed for the distribution of interactive games, and advertiser supported sites as part of multimarket commercial distribution; to eliminate corporations, live venues, the internet, or any other channel of exhibition from multimarket commercial distribution; and to specify that local interest programming, instructional videos, corporate videos, or projects not shot, recorded or originally created in Georgia shall not be included in the definition of “qualified production activities”.
- Adds to the definition of “state certified production” by providing that, in the instance of a “work for hire” in which one production company or qualified interactive entertainment production company hires another production company or qualified interactive entertainment production company to produce a project or contribute elements of a project for pay, the hired company shall be considered a service provider for the hiring company, and the hiring company shall be entitled to the film tax credit.
- Allows a qualified interactive entertainment production company to claim the film tax credit.
- Specifies that in lieu of the inclusion of the Georgia promotional logo, the production company or qualified interactive production company may offer alternative marketing opportunities to be evaluated by the Georgia Department of Economic Development (DECD) to ensure that they offer equal or greater promotional value to the state of Georgia.
- Provides that DECD shall prepare an annual report detailing the marketing opportunities it has approved and specifies what must be included in the report and when the report must be submitted.
- Specifies that in no event shall the aggregate amount of tax credits allowed for qualified interactive entertainment production companies and affiliates exceed \$25 million. The maximum credit for any qualified interactive entertainment production company and its affiliates shall be \$5 million.
- Provides that the Commissioner shall allow the tax credits for qualified interactive entertainment production companies on a first come, first served basis based on the date the credits are claimed. When the \$25 million cap is reached, the tax credit for qualified interactive entertainment production companies shall expire.

House Bill 1027 became effective upon its approval by the Governor on May 2, 2012. Section 1, amending the mega tax credit, is applicable to taxable years beginning on or after January 1, 2012. Section 2, amending the film tax credit, is applicable to taxable years beginning on or after January 1, 2013.

House Bill 1027 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/126949.pdf>

INTANGIBLE RECORDING TAX

HB 851 (O.C.G.A. § 48-6-73) This bill concerns reporting and distribution of intangible recording tax, which is administered at the county level in Georgia. It changes the rate of compensation for the collecting officer to a statewide uniform rate of 6 percent. If the collecting officer is on a salary, however, then the 6 percent commission shall be paid into the county treasury and become county property. It deletes the

former provision that in counties where the population is more than 650,000 according to the U.S. decennial census of 2000 or any future census, the compensation allowed shall be 4 percent.

House Bill 851 became effective upon its approval by the Governor on May 1, 2012.

House Bill 851 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127704.pdf>

MOTOR FUEL

HB 743 (O.C.G.A §§ 48-9-3, 48-8-3) The motor fuel tax provisions of this bill extend the motor fuel tax exemption for public mass transit vehicles which are owned by public transportation systems and vehicles operated by a public campus transportation system through June 30, 2015.

The motor fuel tax provisions of House Bill 743 are effective on July 1, 2012.

House Bill 743 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127719.pdf>

MOTOR VEHICLE

HB 386 (O.C.G.A. § 48-5B-1) The motor vehicle portions of this bill provide as follows:

- For motor vehicles titled in Georgia on or after March 1, 2013, this bill will:
 - Exempt purchases of such vehicles from Georgia sales tax.
 - Exempt such vehicles from annual ad valorem taxes on motor vehicles.
 - Impose a new one-time state and local title ad valorem tax fee (the “New Title Fee”).
- The combined state and local rate of the New Title Fee will be:
 - 6.5% of the statutory fair market value in 2013;
 - 6.75% of the statutory fair market value in 2014;
 - 7.0% of the statutory fair market value in 2015 and thereafter unless adjusted upward to account for revenue shortfalls.
 - In 2016, 2018, and 2022, if a state revenue shortfall has occurred, the rate may be increased by a percentage necessary to offset the shortfall.
 - Under no circumstance can the rate exceed 9.0% of the statutory fair market value.
- The New Title Fee is applicable to “casual sales” between private citizens and is collected when the vehicle is titled in the name of the new owner.
- The New Title Fee is paid to the county where the purchaser is a resident.
- To avoid penalties, purchasers on or after March 1, 2013 must submit within 30 days from the date of purchase:
 - An application for certificate of title; and
 - Payment of any state and local title ad valorem tax fees.
 - A dealership may, on behalf of the purchaser, file the application for title and submit any necessary payments to the county; a dealer providing this service must submit the application and payment within 10 days of the date of purchase.
- The proceeds from the New Title Fee will be distributed to local authorities, school boards, and the State in accordance with specific statutory requirements.
- A purchaser of a motor vehicle in this state for which a title was issued on or after January 1, 2012 but before March 1, 2013 may opt into the new system, thereby becoming exempt from annual ad valorem tax.
 - The “opt in” must be done on or after March 1, 2013, but before January 1, 2014.
 - Any sales tax that was paid at the time of purchase and any ad valorem tax paid will be credited against the New Title Fee. If the sales tax paid plus any ad valorem tax paid is

lower than the amount of the New Title Fee, the difference will be due. However, if the sales tax paid plus any ad valorem tax paid is greater than the amount of the New Title Fee, the difference will not be refunded.

- Upon the death of an owner of a motor vehicle, the deceased's immediate family members (spouse, parent, child, sibling, grandparent, or grandchild) who inherit a motor vehicle that was subject to the old annual ad valorem tax system and that has not been subject to the New Title Fee can remain on the old annual ad valorem tax system, or the family member can instead opt to pay the New Title Fee. If the family member opts to pay the New Title Fee, the vehicle will no longer be subject to the old annual ad valorem tax system. The New Title Fee, if elected, will be assessed at the full rate in effect at the time the title is transferred.
- Immediate family members who inherit a motor vehicle for which a New Title Fee was paid by the deceased owner will pay a New Title Fee at a reduced rate of one-half percent of the fair market value at the time the title is transferred.
- A vehicle which was subject to the old annual ad valorem tax system and that has not been subject to the New Title Fee can be transferred between immediate family members with the old annual ad valorem tax system remaining in place. However, the immediate family member receiving the vehicle can instead opt to pay the New Title Fee. If elected, the New Title Fee will be assessed at the full rate in effect at the time the title is transferred.
- Vehicles for which a New Title Fee has already been paid can be transferred to an immediate family member of the current owner at a reduced New Title Fee rate of one-half percent of the fair market value of the vehicle at the time the title is transferred.
- Disabled veterans who were exempt from sales tax on vehicle purchases prior to the establishment of the New Title Fee will also be exempt from the New Title Fee.
- Motor vehicles subject to the New Title Fee will still be subject to annual registration renewal requirements (with issuance of the annual tag decal) with payment of the nominal registration renewal fee.

The motor vehicle portion of House Bill 386 will become effective on March 1, 2013.

House Bill 386 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/126282.pdf>

HB 732 (Numerous Sections) This bill concerns transporter, veteran, military, and special license plates. It allows for a transporter license plate to be issued to trailer manufacturers and dealers. Additionally, the bill provides that the disabled veteran license plate can display the international wheelchair symbol, and that active and reserve duty members of the armed forces who have received certain awards and medals are eligible to apply for certain special license plates. Section 6 creates a new special license plate, with fees to be shared by the Georgia Prostate Cancer Coalition, the Joan Gaeta Lung Cancer Fund, and the Georgia Nurses Foundation. It also removes fees previously imposed for the special license plate for Certified Firefighters.

House Bill 732 is effective on July 1, 2012.

House Bill 732 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127725.pdf>

HB 795 (O.C.G.A. §§ 40-1-1, 40-7-3, and 40-8-91.1) This bill clarifies the definitions used for “all-terrain vehicles”, “recreational off-highway vehicles”, and “off-road vehicles” to make such definitions consistent with industry standards.

House Bill 795 became effective upon its approval by the Governor on May 1, 2012.

House Bill 795 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127062.pdf>

HB 865 (Numerous Sections) This bill provides for regulation and enforcement with respect to motor carriers and limousine carriers by the Department of Public Safety. This was previously the responsibility of the Georgia Public Service Commission. The bill conforms certain definitions to those used in various other existing state laws. The bill also sets forth a registration fee schedule, insurance requirements, and a declaration of agent requirement for out-of-state carriers.

This bill further mandates that after January 1, 2013, security interest holders and lien holders will receive notice of recordings of security interests and liens electronically. This requirement may be phased in based on criteria designated by the Commissioner of the Department of Revenue through rules and regulations.

House Bill 865 is effective on July 1, 2012.

House Bill 865 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127732.pdf>

HB 872 (O.C.G.A. §§ 40-3-36, 40-3-56) This bill regulates the purchase and sale of scrap metals by secondary metal recyclers, scrap metal processors, and used motor vehicle parts dealers. For vehicle transactions for models over 12 years old, it requires secondary metal recyclers, scrap metal processors, and used motor vehicle parts dealers to verify that the vehicle is not subject to a security interest or lien. The holder of a security interest or lien is required to execute a release within 10 days to the Commissioner and the owner. For vehicles more than 12 model years old, any security interest or lien shall be considered satisfied after four years from date of issuance of a title on which such security interest or lien is listed.

The above provisions of House Bill 872 are effective on July 1, 2012.

House Bill 872 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127780.pdf>

HB 900 (O.C.G.A. § 40-3-36) This bill permits the cancellation of the title and registration of a trailer that is more than 12 model years old and is worth \$1,700 or less.

House Bill 900 is effective on July 1, 2012.

House Bill 900 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127709.pdf>

HB 985 (O.C.G.A. §§ 40-2-8, 40-2-20, 40-2-74.1, and 40-5-2) Section 1 allows a dealer to apply to a County Tag Agent for an extension of time for a temporary permit, and eliminates the requirement that tag agents collect and destroy temporary permits after their expiration. Section 2 provides that a County Tag Agent shall grant an extension of time for the registration of a motor vehicle when a title has not been issued due to a security interest holder failing to timely release a security interest under O.C.G.A. § 40-3-56. Section 4 allows the Commissioner to receive certain motor vehicle information for fraud detection and prevention purposes.

House Bill 985 is effective on July 1, 2012.

House Bill 985 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/126292.pdf>

SB 293 (O.C.G.A. §§ 40-2-9, 40-2-31, 40-2-60.1) This bill states that the Department must provide a place for an authorized decal on all license plates. Authorized decals include an “In God We Trust” decal or a county name label. The “In God We Trust” decal and county name labels are to be issued at no cost.

Senate Bill 293 is effective on July 1, 2012.

Senate Bill 293 can be viewed at this link:

<http://www.legis.ga.gov/Legislation/20112012/127887.pdf>

SB 473 (O.C.G.A. § 40-2-84) This bill expands eligibility for the Purple Heart license plate to members of the active duty and reserve duty armed forces who are still serving on active duty after being awarded the Purple Heart citation.

Senate Bill 473 is effective on July 1, 2012.

Senate Bill 473 can be viewed at this link:

<http://www.legis.ga.gov/Legislation/20112012/126988.pdf>

PROPERTY

HB 48 (O.C.G.A. § 48-5-48.2) This bill adds a second level to the existing “Freeport exemption” for ad valorem taxation. The Level 2 Freeport exemption covers goods, wares, and merchandise of every character and kind constituting the inventory of a business which would not otherwise qualify for a Level 1 Freeport exemption. The Level 2 exemption is structured in a similar manner as the Level 1 exemption in that the local governing authority has discretion to grant or deny the exemption for the applicable tangible personal property and can determine the percentage of relief (if any) to be granted from ad valorem taxation. With respect to the Level 1 Freeport exemption the bill also provides that certain foreign merchandise in transit may be exempted from ad valorem taxation.

House Bill 48 became effective upon its approval by the Governor on April 17, 2012.

House Bill 48 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/124995.pdf>

HB 634 (O.C.G.A. §§ 48-5-24, 48-5-40) This bill updates the applicable census date to 2010 as it pertains to population ranges relevant for the ad valorem tax statutes at O.C.G.A. § 48-5-24 (payment of taxes to the county in which returns are made; installment payments, interest, and penalty on delinquent tax payments in certain counties; executions) and O.C.G.A. § 48-5-40 (Definitions). The bill institutes the following changes:

- The population range in § 48-5-24(c)(1) relating to ad valorem taxes and penalties and interest on delinquent taxes owed by taxpayers in applicable counties changes from “800,000 or more” persons to “900,000 or more” persons.
- The population range in § 48-5-24(b), relating to equal installment payment procedures for ad valorem taxes and penalties and interest on delinquent taxes owed by taxpayers in applicable counties, changes from “not less than 625,000 nor more than 700,000” persons to “not less than 690,000 nor more than 800,000” persons.
- The population range in § 48-5-24(e), relating to payment procedures for ad valorem taxes and penalties and interest on delinquent taxes owed by taxpayers in applicable counties, changes from “not less than 595,000 nor more than 660,000” persons to “not less than 680,000 nor more than 690,000” persons.
- The population range in § 48-5-40(L), relating to qualifications for homestead property located in counties with a certain population range, changes from “not less than 19,200 nor more than 19,750” persons to “not less than 23,500 nor more than 23,675” persons.

House Bill 634 is effective on July 1, 2012.

House Bill 634 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127599.pdf>

HB 729 (O.C.G.A. § 48-5-345) This bill updates a reference to the state ad valorem tax levy rate to make the reference consistent with O.C.G.A. § 48-5-8 which provides that the state rate will gradually decrease over time until it reaches zero for tax year 2016.

The property tax provisions of House Bill 729 became effective upon the bill's approval by the Governor on May 1, 2012.

House Bill 729 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127603.pdf>

HB 916 (O.C.G.A. § 48-5-7.4) This bill amends certain qualifications and restrictions for bona fide conservation use property. Specifically, completing IRS Form 4835 Schedule E and F (Farm Rental Income and Expenses) enables taxpayers to qualify for current use assessment without meeting the county's minimum acreage requirement. If Form 4835 Schedule E and F are completed, the taxpayer does not have to submit additional records regarding proof of bona fide conservation use to the county assessor. Finally, the bill allows an owner of qualified property to obtain contiguous property of less than 50 acres and incorporate that property into the original conservation land use covenant.

House Bill 916 became effective upon its approval by the Governor on May 1, 2012.

House Bill 916 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127772.pdf>

HB 1089 (O.C.G.A. § 36-67) This bill repeals Chapter 67 of Title 36 in its entirety. Repealed Chapter 67 related to mandatory zoning proposal review procedures for counties and municipal corporations. Following repeal, local government planning departments are no longer statutorily required to review zoning proposals and recommend adjustments for suitability.

House Bill 1089 became effective upon its approval by the Governor on April 19, 2012.

House Bill 1089 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127288.pdf>

SALES AND USE TAX

HB 386 (O.C.G.A. §§ 48-8-2, 48-8-3, 48-8-3.2, 48-8-3.3, and 48-13-110) The sales and use tax portion of this bill amends Title 48 relating to agriculture, motor vehicles, film production, manufacturing, competitive projects of regional significance, jet fuel, other exemptions, and the definition of a taxable "dealer". This bill:

- Repeals the sales and use tax exemption for film production equipment.
- Moves the sales and use tax exemptions related to the agriculture industry from O.C.G.A. § 48-8-3 to O.C.G.A. § 48-8-3.3. The newly created section includes exemptions for agricultural production inputs, energy, and agricultural machinery and equipment.
- Moves the sales and use tax exemptions related to the manufacturing industry from O.C.G.A. § 48-8-3 to O.C.G.A. § 48-8-3.2. The newly created section includes exemptions for machinery and equipment, industrial materials, packaging supplies, and energy. The energy exemption is phased

in except for competitive projects of regional significance, which qualify for an immediate energy exemption.

- Provides that counties may impose a phased-in local excise tax on energy that would have been taxable but for the new exemption in O.C.G.A. § 48-8-3.2.
- Provides a sales and use tax exemption for tangible personal property used for and in the construction of competitive projects of regional significance.
- Provides a limited sales and use tax jet fuel exemption for qualifying airlines at qualifying airports.
- Provides a sales and use tax exemption for motor vehicles titled in Georgia after March 1, 2013 pursuant to O.C.G.A. § 48-5B-1. This exemption does not apply to leases or rentals of motor vehicles or to sales and use tax collected pursuant to O.C.G.A. § 48-8-241.
- Clarifies and modifies the definition of “dealer”.
- Establishes sales tax holidays for 2012 for school supplies, clothing, computers, water efficient products, and energy efficient products.

The sales and use tax portions of House Bill 386 have various effective dates.

House Bill 386 can be viewed at the following link:

http://www1.legis.ga.gov/legis/2011_12/pdf/hb386.pdf.

HB 729 (O.C.G.A. §§ 48-8-2 and 48-8-3) The sales and use tax portion of the bill conforms certain language to the Streamlined Sales and Use Tax Agreement and clarifies certain exemptions from sales and use tax. This bill:

- Clarifies the definition of “lease or rental”.
- Clarifies that insulin is exempt from sales and use tax regardless of whether the insulin is dispensable only by a prescription.
- Provides an exemption from sales and use tax for the period of July 1, 2012 through December 31, 2013 for sales relating to an organization defined by the Internal Revenue Service as an instrumentality of the states. The exemption relates specifically to the holding of an annual meeting in this state by such organization.

The sales and use tax portion of House Bill 729 became effective upon its approval by the Governor on May 1, 2012.

House Bill 729 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127603.pdf>.

HB 743 (O.C.G.A. § 48-8-3) This bill modifies the definitions of “qualifying airport” and “qualifying airline” and provides an exemption for single-use packaging material purchased for packaging tangible personal property for shipment or sale, but excludes packaging materials purchased for personal use.

The sales and use tax portion of House Bill 743 is effective on July 1, 2012.

House Bill 743 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127719.pdf>.

HB 932 (O.C.G.A. § 48-8-63) This bill decreases the withholding requirement for general contractors on contracts exceeding \$250,000 with nonresident subcontractors from “up to 4 percent” down to a flat 2 percent.

House Bill 932 is effective on July 1, 2012.

House Bill 932 can be viewed at the following link:

<http://www.legis.ga.gov/Legislation/20112012/127865.pdf>.

HB 1049 (O.C.G.A. §§ 46-5-122, 46-5-124.1, 46-5-134 and 46-5-134.2) This bill redefines “prepaid wireless service”, imposes registration requirements on voice over internet protocol service providers, and adds a new de minimis exception to the prepaid wireless 911 charge authorized by O.C.G.A. § 46-5-134.2. The new exception allows sellers to elect not to impose the prepaid wireless 911 charge when selling an amount of service denominated as 10 minutes or less or \$5.00 or less.

House Bill 1049 is effective on July 1, 2012.

House Bill 1049 can be viewed at the following link:
<http://www.legis.ga.gov/Legislation/20112012/127720.pdf>.

SB 332 (O.C.G.A. §§ 48-8-36 and 48-8-122, and O.C.G.A. Title 48, Chapter 13) This bill allows a retailer to advertise that it will absorb all or part of the sales tax imposed on retail sales, expands the matters that must be reported regarding the expenditure of certain special purpose local option sales tax proceeds, and revises Section 5-4 of HB 386 regarding the procedures to be used to implement a local excise tax on energy.

Senate Bill 332 is effective on July 1, 2012.

Senate Bill 332 can be viewed at the following link:
<http://www.legis.ga.gov/Legislation/20112012/127875.pdf>.